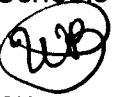


MEMORANDUM

TO: Dr. James T. Roberts
Assistant Superintendent/Personnel Support
Chesapeake Public Schools

FROM: Wilfredo Bonilla, Jr. 
Assistant City Attorney

RE: Memorandum of Understanding between
Chesapeake Public Schools and the Chesapeake
Police Department

DATE: August 31, 2011

CC: Colonel Kelvin L. Wright, Chief of Police
Deputy Chief M. G. Solesky
Major T. Branch

Attached please find one fully executed original Memorandum of Understanding between the Chesapeake Public Schools and the Chesapeake Police Department regarding School Resource Officers.

If you have any questions, please contact me.

Thank you.

WBJR:hvm
Attachment

**MEMORANDUM OF UNDERSTANDING BETWEEN:
Chesapeake Public Schools and The Chesapeake Police Department**

This Memorandum of Understanding ("MOU") made this 19th day of August, 2011, by and between the City of Chesapeake, Virginia, a Virginia municipal corporation by and for its Police Department ("Department") and Chesapeake Public Schools ("CPS"). Department and CPS shall be collectively referred to as the "Parties."

WHEREAS, the Department and CPS have long recognized the importance of working together to maintain a safe and secure school environment for our youth and school staffs; and

WHEREAS, the Youth Services Officer (now known as School Resource Officer) Program (the "Program") was initiated in 1972 to make our schools safer and more secure, and since its inception, the Program has continued to be a proven success and a vital asset to the City of Chesapeake ("City"), reflecting a serious commitment and collaborative effort between CPS, the Department and the community; and

WHEREAS, over the past years, the Program has fulfilled its expectations and served the intended needs, and yet as CPS, the Department and the City have grown in both population and complexities, it has become evident that there is a need to establish a clear understanding between all participants with respect to various aspects of the Program; and

WHEREAS, this Memorandum of Understanding ("MOU") will ensure that both Parties know and understand their respective duties and responsibilities, and it will also ensure that the Program continues to function and provide for the interests of both Parties and the community.

NOW, THEREFORE, this MOU is established to provide continuing effective service and continuity in the way the Program is administered, and also to allow for adjustments to be made with regard to changes in personnel and other conditions.

I. General Procedures

- A. The Department is committed to the prevention of juvenile delinquency and crime. School Resource Officers (SROs) are assigned to work within the City's public schools to enhance cooperation between the Department and CPS in the pursuit of these goals. The Program is a vital component of the Department's community oriented policing philosophy. This collaborative effort between CPS and the Department is established to further accomplish the mission of the City by improving the quality of life within its boundaries and providing a safe learning environment within CPS.
- B. The Department shall employ, supervise, and evaluate the SROs, and shall also provide their equipment.
- C. SROs will be responsible for law enforcement activities on school property during school hours. The SROs will patrol school buildings, parking lots, and areas in close proximity to the school. Violations of the Code of Virginia/Chesapeake City Code will be enforced in accordance with Department policies.
- D. When it becomes necessary to be absent from school grounds, the SROs will notify the Principal or an Assistant Principal of the assigned school.
- E. The SROs are not authorized to enforce violations of school rules, policies, regulations or administrative rules, and will not serve in any other capacity than that of a law enforcement officer performing those duties

authorized by the Department and contained in this MOU, as it may be amended.

- F. The SROs may be utilized as an instructor to teach previously agreed upon curriculum pertaining to Department programs. However, during these periods of instruction, a teacher will remain in the classroom with the SROs.

II. Communications

- A. A critical element in maintaining the success of the Program is the development and continuing of a positive relationship between the school, the Principal, its staff, and the SROs.
- B. The SROs and the School Principal and/or the Assistant Principal will meet as needed, preferably at a designated time, for the purpose of exchanging information regarding any criminal activity/investigations, problem areas, persons or groups, or any other areas of concern that might affect (or be affecting) the school and/or the community.
- C. The SROs' Supervisor will meet as needed with the School Principal (or his/her designee). The purposes of this meeting will be to evaluate the SROs Program and the assigned officer, to remain consistently aware of current trends and strategies, and to address any issues of concern. Upon request from the Department, CPS will provide information/input to the Department to assist in the personnel evaluation of the assigned SROs.
- D. The SROs' supervisor will meet at least once per school year with the Principals of those high schools and middle schools that have been

assigned SROs. These meetings are to ensure that open lines of communication are in place between the Department and the School Division and to keep abreast of ongoing SROs' activities and programs. These meetings are not to be delegated to other administrative staff.

III. School Division/Principal Responsibilities

- A. The CPS Principals shall meet as outlined above with the SROs and the SROs' Supervisor, to ensure open communication between them. These meetings are not be delegated to other administrative staff.
- B. Each school shall provide the assigned SROs with a work area/office equipped with a telephone. The SROs will also have access to a computer with a City "GroupWise" account or the Internet. The work area should, if at all possible, allow for private and confidential meetings between the SROs and faculty, parents, students, etc.
- C. School personnel will immediately contact the SROs to turn over possession of any contraband (drugs, weapons, etc.) recovered in schools by the school's staff taking care to maintain a verifiable chain of custody. The SROs will be responsible for arranging for the destruction of any illegal substances that will not be used as evidence in the prosecution of a criminal matter. The destruction of any contraband by the SROs shall be administered in accordance with existing laws and the Department's policies. If the SROs are not available, the school will immediately contact the non-emergency number for the Department (382-6161) to have an officer respond to recover the contraband. CPS personnel shall

promptly provide the Department with all criminal evidence and pertinent information obtained during any investigation or seizure conducted by CPS personnel.

- D. All criminal activity or suspected criminal activity that comes to the attention of the Principal or school staff will be promptly reported to the SROs, when on duty, or an available SRO assigned to another school, or to the Department through the non-emergency number, if a SRO is not available. If an immediate law enforcement response is necessary (*e.g.* recovered drugs, weapons or other evidence of law enforcement assistance is needed) and the SROs are not available, the Principal or school staff shall promptly notify the Police Department/Emergency Communications at 382-6161 or via 9-1-1, **if an emergency exists.**
- E. The School System shall provide training, as needed, to the SROs in areas that will increase the effectiveness of the officers and their ability to accomplish their respective duties and responsibilities. The School Division and the Police Department should mutually seek opportunities to provide training to each other in the areas of mutual interest to the Program.
- F. The school Principal or designee shall advise the SROs, and if not available, the Department, regarding the mental state and/or medical condition of a student who (1) may present a current risk to himself or others, or (2) is suspected of being about to engage in criminal activity, and, if known, whether the student is taking prescription medication and

receiving other medical treatment. Such notification shall be made prior to or at the time that a request for police intervention is made.

IV. School Resource Officer Responsibilities

- A. The SROs, as sworn members of the Department, are directly responsible to their immediate supervisor within the Department. The SROs' supervisor will designate and/or authorize any variations to the normal work schedule or assignments.
- B. The SRO will inform the Assistant Principal of his/her schedule, including any unexpected absences and keep that person up to date on any changes resulting from a workload alteration.
- C. The SRO will establish a close working relationship with officials of the school to which he/she is assigned. SROs will be encouraged to attend any job-related school functions and job-related after school activities when possible to enhance the relationship between the students and the SROs.
- D. The SROs shall not assume authority in matters of student discipline when it involves school policies governing student behavior. The school administration shall initiate the necessary action and subsequent disposition. The SROs will only enforce violations of the Code of Virginia or the Chesapeake City Code.
- E. The SROs will assist and cooperate with all members of the schools with regard to handling juveniles. The SROs' primary purpose is to assist in providing solutions to problems rather than initiating the legal process.

- F. The SROs will provide information about law enforcement and the criminal justice system to school personnel, students, and parents, to include explaining the meaning of pertinent laws, consequences of violations of law, and the overall police function.
- G. The SROs will prepare records and reports regarding criminal activity at the schools as requested or required by the Department and CPS.
- H. The SROs will strive to establish an effective relationship with students in the schools through the use of classroom presentations, discussions and informal interaction.
- I. It is intended that the presence of the SROs in the schools serve to provide a visible deterrence to criminal activity, and also to strengthen police-community relations in a non-confrontational setting. SROs will also strive to improve police/student relations by enhancing the overall police image. They should focus their efforts on improving the attitudes of students and other youths toward the police, as well as police attitudes toward youths.
- J. The SROs will patrol the school building and grounds of their assigned school, handling all law enforcement related calls for service from the school and coordinating the response of other law enforcement resources to the school with the school Principal if necessary and time permits. The SROs will keep their City-issued, portable police radio accessible and available for use at all time while on school grounds.

- K. Requests by the SROs for additional police assistance at the school will be done via the police radio, when possible, and not by telephone, except in emergency circumstances when the SROs' police radio is not accessible or is not functioning inside the school building. This requirement is to ensure that assistance can be rendered as soon as possible by any police unit that is in the area and able to respond to the call.
- L. When present on school grounds, the SROs shall be visible in and around their assigned school during the beginning of the day, at the end of the day, during the times between classes and during lunch periods.
- M. The SROs will keep school officials apprised of crime trends that affect the schools and changes of the Code of Virginia or the City Code to assist the school staff in effectively providing safe school environments.
- N. SROs shall be aware of cultural and social influences and activities to ensure prevention or early intervention with things such as developing gang structures. All information concerning gangs obtained by the SRO shall be provided to the Department's Gang Suppression Unit. The Department may provide information regarding gangs and gang activity to the School Administration provided such disclosure will not jeopardize any criminal investigation, prosecution or jeopardize the public's safety.
- O. The SROs will prepare the appropriate Department reports, make arrests when necessary, and provide testimony for school disciplinary and expulsion hearings when requested to do so.

V. Law Enforcement Investigation and Questioning

- A. The SROs are sworn law enforcement officers with all applicable police powers on school property, including the authority to stop, interview as described herein, and take appropriate law enforcement action in situations involving students, faculty, and other persons on school property. Law enforcement activities requiring immediate action may be taken without prior notification to the school Principal, although SROs shall notify school officials of the situation as soon as practical.
- B. During the course of an investigation for alleged child abuse or neglect, police officers and/or social workers are authorized by Virginia State Code Section 63.2-1518 to interview any child suspected of being abused or neglected and/or his/her siblings outside the presence of his/her parent, guardian, legal custodian, or other person standing in loco parentis or school personnel without first obtaining parental consent, or consent from school officials. School personnel will not inform parents, guardians, legal custodians, or other persons standing in *loco parentis* that a police officer and/or social worker has requested, or has interviewed, a child in connection with an investigation of alleged child abuse or neglect involving the child interviewed and/or his/her siblings.
- C. Police Officers, including SROs, who desire to interview a minor student in reference to a criminal offense, shall first obtain consent from the school's Principal or designee and the parent/legal guardian of the student, except for those offenses noted in subsection B above or in an emergency

involving imminent threat to the safety of the public, student body or CPS staff, or when investigating crimes involving drugs, weapons, or bodily harm or otherwise when determined by the SRO timely access to a student is needed for the prevention of a crime or apprehension of a suspect. It is the philosophy of the School Board that police officers shall interview students who are minors outside of the school day and off school property, whenever possible.

At anytime in which a custodial interrogation of a CPS student is conducted pursuant to any of the criminal offenses noted in subsection B, above and this subsection C, the SRO, police officer or detective conducting the interrogation, shall issue Miranda warnings consistent with applicable law. A custodial interrogation shall mean that the student that is the subject of the police interrogation, is not free to leave, or free to terminate the interrogation. However, the SRO, a police officer or detective may conduct general investigative inquiries of CPS students, which shall not require the reading of Miranda warnings provided that the student is advised that he/she is not in custody and is free to leave, and is free to terminate the investigative interview at any time.

The following guidelines shall apply.

1. If a non-SRO police officer determines that an interview is necessary during the school day, the officer will contact the school SRO, or in the absence of the SRO, the Principal or Assistant Principal, to coordinate the interview. If the SRO determines that

a student interview is necessary during the school day regarding suspected criminal activity, he/she shall likewise contact the Principal or Assistant Principal.

2. The questioning of the student(s) may be permitted within the school in a private place and in the presence of a designated school representative.
3. The appropriate school official shall make a reasonable effort to notify a parent or legal guardian that police officers are seeking permission to question the student in school, except in cases of an emergency involving imminent threat to the safety of the public, student body or CPS staff, or when investigating crimes involving drugs, weapons, or bodily harm or otherwise when determined by the SRO timely access to a student is needed for the prevention of a crime or apprehension of a suspect or suspected child abuse or neglect as mentioned above in Subsection B. Except as noted herein, the Parent or legal guardian, if reached, will be given a reasonable opportunity to attend the interview or direct that it not occur in the school setting.
4. When a police interview of a student regarding suspected criminal activity occurs either off school grounds or on school grounds, the Department will notify the school representative if students or school employees are at risk of harm due to such criminal activity.

- D. If a principal or other school official learns of an actual or suspected criminal act and conducts his/her own interview of the student suspected of committing or planning the criminal act or any witnesses to the act, and this occurs prior to notifying the SRO, any information obtained from this interview shall be promptly reported to the SRO. Schools officials shall not conduct such interviews at the direction of the SROs, or acting as an agent of the SROs. All criminal activity, or suspected criminal activity that comes to the attention of school staff will be reported promptly to the SROs, when on duty, or an available SRO assigned to another school, or to the Department through the non-emergency number, if a SRO is not available. Prompt reporting of all criminal activity or suspected criminal activity to Department personnel by CPS personnel is critical to the success of the Program.

VI. Arrest/Enforcement Procedures

- A. The following procedures will be adhered to when criminal enforcement action in the school becomes necessary;
1. The arrest of a student or staff member on a warrant should, whenever practical, be coordinated through the Principal.
 2. The Principal shall be notified as soon as practical of any significant criminal enforcement action (to include arrest) in the school or related to the school as long as this notification does not compromise officer, student or staff safety or the integrity of the investigation.

- B. Any Department criminal investigation or arrest that occurs in the school will take precedence over the CPS policy, including any investigation or action to be taken by school officials.
- C. The SROs will be informed by school officials of any person whose presence has been legally restricted or forbidden on school property. The SROs are authorized to arrest such person or any other unauthorized person for trespassing on school property.
- D. The SRO will notify the appropriate school officials when he/she becomes aware that any faculty member or school employee has been arrested for a crime that the Department is required by law to report to school officials.

VII. Search and Seizure

- A. The Department recognizes that the schools may sometimes detain a student for questioning and/or search a student's personal property, person, or school property provided for his/her use when reasonable suspicion exists to believe that the student violated federal, State or City laws. School officials shall notify the SROs promptly, or promptly call the Department non-emergency number in the absence of the SRO, if any contraband or any evidence of criminal activity is recovered.
- B. The U.S. and Virginia constitutions, applicable case law, and statutory law govern the SROs' actions with regard to questioning suspects, searches and seizures, arrests and all other law enforcement activities. The SROs are required to adhere to the probable cause standard for the purposes of arresting and/or searching individuals as part of a criminal investigation.

- C. The SROs will not become involved in student or school searches which are conducted by school officials and are not supported by probable cause. When requested, SROs may stand by for safety and security reasons but will not become involved in the search, either through words or actions. The SROs will be responsible for taking custody of any contraband or weapons found, whether or not such items will be used for prosecution or administrative hearings, and ensuring the contraband or weapons are handled according to applicable Department policies and procedures.
- D. SROs will not encourage or request a school official to act as the SROs' agent in conducting searches of students, their property, or school facilities or property. This shall not preclude the SROs from providing school officials with information which the SROs have received regarding students or staff of the school. Any searches conducted by the SROs or other Department personnel are to be in accordance with existing laws and Department policies and procedures.

VIII. Release of Student Information

- A. Release of student information is controlled by the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, 34 C.F.R. § 99, et seq., the Virginia Code and Virginia Administrative Code, and by School Board Policy and Regulations, all as amended from time to time.
- B. Student names, addresses and telephone numbers, and parent and/or guardian names, addresses and telephone numbers (collectively,

"Directory Information") may be released to the Department for official law enforcement use in criminal cases.

- C. The availability of Directory Information for vital law enforcement use in criminal cases eliminates a potential barrier to the investigative capacities of the Department while at the same time being mindful of the privacy of students.
- D. Other information about students, including educational records protected from disclosure under FERPA, may be released (1) to law enforcement officials, without the parents' or legal guardian's permission or consent pursuant to a valid subpoena or search warrant and/or in connection with an articulable emergency, if the knowledge of such information is significant and necessary to protect the health and safety of a student or other persons, and (2) to SROs pursuant to their duties hereunder. No further disclosure of such information shall be made either by law enforcement officials or by SROs, except as authorized by law.
- E. When information regarding a minor is to be released to the Department's law enforcement officials pursuant to a subpoena or search warrant, CPS shall attempt to notify the parent or legal guardian prior to such release unless CPS is notified by the Department that such release would endanger one or more persons or compromise an ongoing investigation or criminal prosecution. CPS will make a similar attempt to notify a student if over age 18, subject to the same limitation.

IX. Conclusion

- A. This endeavor is a partnership between education and law enforcement, which supports a collaborative, pro-active approach to providing a safe school environment for the Chesapeake Public Schools and the Chesapeake Police Department through the SRO Program.
- B. This MOU will remain in effect until such time as either Party terminates it by delivering written notification of its intent to terminate with 30 or more calendar days notice to the other Party. It shall be reviewed annually and may be modified with the prior written consent of the Parties' authorized signatories.

CHESAPEAKE PUBLIC SCHOOLS

By: James T. Roberts
Dr. James T. Roberts
Superintendent

Date: 8/26/11

**CITY OF CHESAPEAKE, POLICE
DEPARTMENT**

By: Kevin D. Wright
Col. Kevin D. Wright
Chief

Date: 8-30-11

Appendix A:

20 United States Code § 1232g. Family Educational and Privacy Rights Act

Volume 34, Code of Federal Regulations § 99. Family Educational Rights and Privacy

VA State Code 63.2-1618. Authority to talk to child or sibling.

Any person required to make a report or conduct an investigation or family assessment, pursuant to this chapter (Chapter 15 - Child Abuse and Neglect) may talk to any child suspected of being abused or neglected or to any of his siblings without consent of and outside the presence of his parent, guardian, legal custodian, or other person standing in loco parent's, or school personnel.

(1975, c. 341, § 63.1 248, 10; 1979, c. 453; 1986, c. 308; 2000, c. 500; 2002, c. 747.)